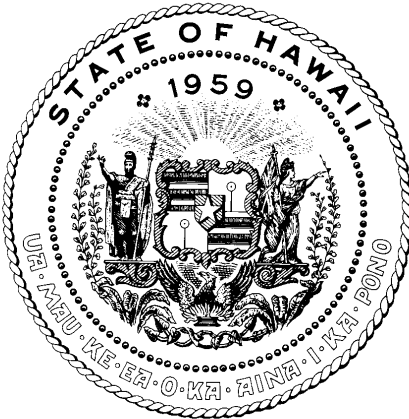


Report to the Twenty-First Legislature  
Regular Session of 2002

**Final Report on  
Discussions With Affected Ranchers in  
Connection with the Saddle Road Realignment Project**



Prepared by:  
Department of Land and Natural Resources  
State of Hawaii

In response to:  
Act 236 (Section 2), Session Laws of Hawaii 2001

January 2002

**Final Report to the Twenty-First Legislature  
Regular Session of 2002**

**On the Discussions With Affected Ranchers in  
Connection with the Saddle Road Realignment Project**

Introduction

The 2001 Hawaii State Legislature enacted legislation, translated as Act 236, Session Laws of Hawaii (SLH) 2001, directing the Department of Land and Natural Resources (Department) to expedite discussions with representatives of Parker Ranch, K.K. Ranch, Inc., Schuman Carriage Corporation, and Boteilho Enterprises, Inc. and to identify and investigate all alternatives that will:

- (1) Fairly compensate the ranchers for losses suffered as a result of the withdrawal of any leased lands; and
- (2) Avoid providing exceptions to public land leasing policies.

The Act also directed the Department to authorize the lessees to utilize ten per cent of the remaining land for alternative agricultural use at no increase in the lease rent rate and to submit a final report on the result of these discussions and any proposed legislation to the legislature no later than twenty days prior to the convening of the regular session of 2002.

Background

The proposed Saddle Road Improvements Project is intended to provide a safe and efficient route for access along Saddle Road and for cross-island traffic between East and West Hawaii. The Improvements would upgrade and modernize Saddle Road (State Route 200) as a two-lane highway that would meet State Department of Transportation (DOT) and American Association of State Highway and Transportation Officials design standards for rural arterials and provide adequate capacity to handle anticipated traffic volumes through the year 2014 and beyond. The entire Saddle Road Project is approximately 48 miles long and extends from Mamalahoa Highway (State Route 190) to Milepost 6, near Hilo.

A portion of the overall project will involve the realignment and improvement of Saddle Road between Mileposts 29 and 42 (Saddle Road Section 2). Funding is appropriated for these improvements through the U.S. Army's Defense Access Road program, which is co-administered by the Army's Military Traffic Management Command and the Federal Highway Administration (FHWA).

Upon completion of the improvements, this section of the Saddle Road will be owned and maintained by DOT as part of its State Highway System.

The selected alignment of the Saddle Road Improvement Project between Mileposts 29 and 42 (Saddle Road Section 2), impacts approximately 102.5 acres of federally designated Palila Critical Habitat (PCH) established pursuant to the Endangered Species Act. The U. S. Fish & Wildlife Service which is responsible for the administration of this Act, has determined that the construction of the improvements within the PCH will not jeopardize the palila nor adversely modify the PCH provided that conservation measures identified in the Record of Decision and the Memorandum of Understanding (MOU) regarding implementation of the Saddle Road PCH mitigation, dated August 10, 1999, are implemented. This MOU was agreed to and signed by FHWA, DOT, U.S. Army Garrison Hawaii, Military Traffic Management Command, the State Department of Land and Natural Resources (Department), U.S. Fish & Wildlife Service and the Biological Resource Division of the U.S. Geological Survey.

This MOU determined that the palila mitigation, as presented in the Saddle Road Biological Opinion for the selected alignment, is necessary and must be implemented to ensure the successful completion of the proposed Saddle Road Project. As a condition of constructing the Saddle Road realignment within PCH, the Biological Opinion required:

1. The provision of approximately 5,143 acres of land on the north slope of Mauna Kea for palila habitat restoration;
2. The provision of approximately 1,400 acres of land immediately adjacent to the current palila population on the west slope of Mauna Kea for palila habitat restoration; and
3. The management of these lands for the re-establishment/sustenance of palila in accordance with the MOU.

Construction of Section 2 of the Saddle Road improvements is scheduled to begin in 2002. In order for this construction to commence, the mitigation components, including the assurance that the required lands will be managed for mamane forest restoration, must be in place prior to the start of construction.

The palila mitigation requirements of the Saddle Road Improvement Project will impact the following State pasture leases administered by the Department:

General Lease No. S-4471 to Parker Ranch;  
General Lease No. S-4475 to K.K. Ranch, Inc.  
General Lease No. S-4477 to S.C. Corporation; and  
General Lease No. S-4478 to Boteilho Enterprises, Hawaii, Inc.

The DOT Highways Division, in coordination with FHWA, will provide compensation to the existing lessees in accordance with the provisions of the *Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970*, as amended. Under this Act, the tenants are eligible for reimbursement of actual reasonable

expenses for vacation of the property under the relocation provisions, as well as any required payment for improvements to the property. Compensation for improvements would consist of payment for the permanent improvements (buildings, wells, new fences, etc.) made to the properties by the leaseholders in accordance with the terms of the lease.

Some felt that compensation by DOT would not sufficiently address the actual damages to the lessees. Similar to other large ranchers in Hawaii, the affected lessees are primarily in the cow/calf business by which calves are shipped to the mainland for grow out and sale. The critics argued that the *Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970*, as amended, primarily views compensation for cattle on a salvage value basis and does not address the loss of future revenue from additional calves.

### Actions by the Board of Land and Natural Resources

On September 28, 2001, the Board of Land and Natural Resources (Board) granted a Conservation District Use Permit to the DOT for the subdivision of the road right-of-way areas and construction of the Saddle Road improvements, subject to various terms and conditions.

On December 14, 2001, the Board approved the set aside of rights-of-way for the portion of the Saddle Road Improvement Project between Mileposts 29 and 42 (Saddle Road Section 2). At the same meeting, the Board approved the granting of a conservation easement over the subject four pasture leases for the purposes of the required palila mitigation effort.

In the interest of an alternative means of fairly compensating the lessees for the loss of the palila mitigation areas, the Board approved "in principle" an extension of the leases in connection with a mortgage as allowed under current statutes and land lease policies. Although not an actual approval for extension, it provides the lessees with an affirmative position by the Board towards a request for extension upon their application for such an extension with an actual mortgage commitment. Under current statutes, the lessees are allowed to request up to another 20 years beyond the current expirations in 2011.

With these extensions, the lessees will have another 20 years to recoup those revenues lost due to the removal of the palila mitigation areas from grazing.

The Board also made it a condition of their approval that should the cattle grazing be utilized as a management tool in the mitigation program, the current lessees shall have the first right-of-refusal to provide this service within their respective original lease areas.

These actions by the Board represent the Department's good faith efforts to comply with the intent of Act 236, SLH 2001.

Additionally, in compliance with Act 236, SLH 2001, the Board authorized an amendment of the subject four leases allowing the lessees to utilize ten per cent of the remaining acreage for alternative agricultural uses at no increase in the lease rent rate.

#### Report on Discussions with Ranchers

The following is a summary of discussions between the Department and the ranchers.

With the anticipation that the Board will grant lease extensions where the lessees comply with Chapter 171, HRS, the ranchers feel that the impact of the loss of the grazing areas to the palila mitigation requirement has been reasonably mitigated. Although not what they would consider ideal, they are accepting of the Board's actions in connection with the Saddle Road Improvement Project and the associated palila mitigation requirement.

The four lessees have indicated that they have no current plans to utilize the allowance for alternative agricultural uses on ten per cent of the remaining lease areas at no increase in lease rent rate. With less than ten years left on the current leases, it has been difficult for them to consider such alternative agricultural uses and the investment risk associated with such an endeavor. However, they have not ruled out the prospects of taking advantage of this option especially upon the extension of the leases.